

108TH CONGRESS
1ST SESSION

S. 285

To authorize the integration and consolidation of alcohol and substance abuse programs and services provided by Indian tribal governments, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 2003

Mr. CAMPBELL introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To authorize the integration and consolidation of alcohol and substance abuse programs and services provided by Indian tribal governments, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Native American Alco-
5 hol and Substance Abuse Program Consolidation Act of
6 2003”.

7 **SEC. 2. PURPOSES.**

8 The purposes of this Act are—

1 (1) to enable Indian tribes to consolidate and
2 integrate alcohol and other substance abuse preven-
3 tion, diagnosis, and treatment programs, and mental
4 health and related programs, to provide unified and
5 more effective and efficient services to Indians af-
6 flicted with mental health, alcohol, or other sub-
7 stance abuse problems;

8 (2) to recognize that Indian tribes can best de-
9 termine the goals and methods for establishing and
10 implementing prevention, diagnosis, and treatment
11 programs for their communities, consistent with the
12 policy of self-determination;

13 (3) to encourage and facilitate the implementa-
14 tion of an automated clinical information system to
15 complement the Indian health care delivery system;

16 (4) to authorize the use of Federal funds to
17 purchase, lease, license, or provide training for tech-
18 nology for an automated clinical information system
19 that incorporates clinical, financial, and reporting
20 capabilities for Indian behavioral health care pro-
21 grams;

22 (5) to encourage quality assurance policies and
23 procedures, and empower Indian tribes through
24 training and use of technology, to significantly en-

1 hance the delivery of, and treatment results from,
2 Indian behavioral health care programs;

3 (6) to assist Indian tribes in maximizing use of
4 public, tribal, human, and financial resources in de-
5 veloping effective, understandable, and meaningful
6 practices under Indian behavioral health care pro-
7 grams; and

8 (7) to encourage and facilitate timely and effec-
9 tive analysis and evaluation of Indian behavioral
10 health care programs.

11 **SEC. 3. DEFINITIONS.**

12 In this Act:

13 (1) **AUTOMATED CLINICAL INFORMATION SYS-**
14 **TEM.**—The term “automated clinical information
15 system” means an automated computer software
16 system that can be used to manage clinical, finan-
17 cial, and reporting information for Indian behavioral
18 health care programs.

19 (2) **FEDERAL AGENCY.**—The term “Federal
20 agency” has the meaning given the term “agency”
21 in section 551 of title 5, United States Code.

22 (3) **INDIAN.**—The term “Indian” has the mean-
23 ing given the term in section 4 of the Indian Self-
24 Determination and Education Assistance Act (25
25 U.S.C. 450b).

1 (4) INDIAN BEHAVIORAL HEALTH CARE PRO-
 2 GRAM.—The term “Indian behavioral health care
 3 program” means a federally funded program, for the
 4 benefit of Indians, to prevent, diagnose, or treat, or
 5 enhance the ability to prevent, diagnose, or treat—

6 (A) mental health problems; or

7 (B) alcohol or other substance abuse prob-
 8 lems.

9 (5) INDIAN TRIBE.—

10 (A) IN GENERAL.—The term “Indian
 11 tribe” has the meaning given the term in sec-
 12 tion 4 of the Indian Self Determination and
 13 Education Assistance Act (25 U.S.C. 450b).

14 (B) INCLUSIONS.—The term “Indian
 15 tribe”, in a case in which an intertribal consor-
 16 tium, tribal organization, or Indian health cen-
 17 ter is authorized to carry out 1 or more pro-
 18 grams, services, functions, or activities of an In-
 19 dian tribe under this Act, includes the inter-
 20 tribal consortium, tribal organization, or Indian
 21 health center.

22 (6) SECRETARY.—The term “Secretary” means
 23 the Secretary of Health and Human Services.

24 (7) SUBSTANCE ABUSE.—The term “substance
 25 abuse” includes—

1 (A) the illegal use or abuse of a drug or
2 an inhalant; and

3 (B) the abuse of tobacco or a related prod-
4 uct.

5 **SEC. 4. PLANS.**

6 The Secretary, in cooperation with the Secretary of
7 Labor, the Secretary of the Interior, the Secretary of Edu-
8 cation, the Secretary of Housing and Urban Development,
9 the Attorney General, and the Secretary of Transpor-
10 tation, as appropriate, shall, on receipt of a plan accept-
11 able to the Secretary that is submitted by an Indian tribe,
12 authorize the Indian tribe to carry out a demonstration
13 project to coordinate, in accordance with the plan, the In-
14 dian behavioral health care programs of the Indian tribe
15 in a manner that integrates the program services into a
16 single, coordinated, comprehensive program that uses, to
17 the extent necessary, an automated clinical information
18 system to better manage administrative and clinical serv-
19 ices, costs, and reporting requirements through the con-
20 solidation and integration of administrative and clinical
21 functions.

22 **SEC. 5. PROGRAMS AFFECTED.**

23 Programs that may be integrated in a demonstration
24 project described in section 4 are—

1 (1) an Indian behavioral health care program
2 under which an Indian tribe is eligible for the receipt
3 of funds under a statutory or administrative for-
4 mula;

5 (2) an Indian behavioral health care program
6 under which an Indian tribe is eligible for receipt of
7 funds through competitive or other grants, if—

8 (A)(i) the Indian tribe provides notice to
9 the appropriate agency regarding the intentions
10 of the Indian tribe to include the Indian behav-
11 ioral health care program in the plan that the
12 Indian tribe submits to the Secretary; and

13 (ii) the agency consents to the inclusion of
14 the grant in the plan; or

15 (B)(i) the Indian tribe elects to include the
16 Indian behavioral health care program in the
17 plan; and

18 (ii) the administrative requirements con-
19 tained in the plan are essentially the same as
20 the administrative requirements applicable to a
21 grant under the Indian behavioral health care
22 program; and

23 (3) an Indian behavioral health care program
24 under which an Indian tribe is eligible to receive
25 funds under any other funding scheme.

1 **SEC. 6. PLAN REQUIREMENTS.**

2 A plan of an Indian tribe submitted under section 4
3 shall—

4 (1) identify the programs to be integrated;

5 (2) be consistent with this Act;

6 (3) describe a comprehensive strategy that—

7 (A) identifies the full range of existing and
8 potential alcohol and substance abuse and men-
9 tal health treatment and prevention programs
10 available on and near the service area of the In-
11 dian tribe; and

12 (B) may include site and technology as-
13 sessments and any necessary computer hard-
14 ware installation and support;

15 (4) describe the manner in which services are to
16 be integrated and delivered and the results expected
17 under the plan (including, if implemented, the man-
18 ner and expected results of implementation of an
19 automated clinical information system);

20 (5) identify the projected expenditures under
21 the plan in a single budget;

22 (6) identify the agency or agencies in the In-
23 dian tribe to be involved in the delivery of the serv-
24 ices integrated under the plan;

25 (7) identify any statutory provisions, regula-
26 tions, policies, or procedures that the Indian tribe

1 requests be waived in order to implement the plan;
2 and

3 (8) be approved by the governing body of the
4 Indian tribe.

5 **SEC. 7. PLAN REVIEW.**

6 (a) CONSULTATION.—On receipt of a plan from an
7 Indian tribe under section 4, the Secretary shall consult
8 with—

9 (1) the head of each Federal agency providing
10 funds to be used to implement the plan; and

11 (2) the Indian tribe.

12 (b) IDENTIFICATION OF WAIVERS.—Each party con-
13 sulting on the implementation of a plan under section 4
14 shall identify any waivers of statutory requirements or of
15 Federal agency regulations, policies, or procedures that
16 the party determines to be necessary to enable the Indian
17 tribe to implement the plan.

18 (c) WAIVERS.—Notwithstanding any other provision
19 of law, the head of a Federal agency may waive any statu-
20 tory requirement, regulation, policy, or procedure promul-
21 gated by the Federal agency is identified by the Indian
22 tribe or the Federal agency under subsection (b) unless
23 the head of the affected Federal agency determines that
24 a waiver is inconsistent with—

25 (1) this Act;

1 (2) any statutory requirement applicable to the
 2 program to be integrated under the plan that is spe-
 3 cifically applicable to Indian programs; and

4 (3) any underlying statutory objective or pur-
 5 pose of a program to be consolidated under the plan,
 6 to such a degree as would render ineffectual activi-
 7 ties funded under the program.

8 **SEC. 8. PLAN APPROVAL.**

9 (a) IN GENERAL.—Not later than 90 days after the
 10 date of receipt by the Secretary of a plan under section
 11 4, the Secretary shall inform the Indian tribe that sub-
 12 mitted the plan, in writing, of the approval or disapproval
 13 of the plan (including any request for a waiver that is
 14 made as part of the plan).

15 (b) DISAPPROVAL.—

16 (1) IN GENERAL.—The Secretary may dis-
 17 approve a plan if—

18 (A) the plan does not provide sufficient in-
 19 formation for the Secretary to adequately re-
 20 view the plan for compliance with this Act;

21 (B) the plan does not comply with this
 22 Act;

23 (C) the plan provides for the purchase,
 24 lease, license, or training for, an automated
 25 clinical information system, but the purchase,

lease, license, or training would require aggregate expenditures of program funding at such a level as would render other program substantially ineffectual; or

(D)(i) the plan identifies waivers that cannot be waived under section 7(c); and

(ii) the plan would be rendered substantially ineffectual without the waivers.

(2) NOTICE.—If a plan is disapproved under subsection (a), the Secretary shall—

(A) inform the Indian tribe, in writing, of the reasons for the disapproval; and

(B) provide the Indian tribe an opportunity—

(i) to amend and resubmit the plan;

or

(ii) to petition the Secretary to reconsider the disapproval (including reconsidering the disapproval of any waiver requested by the Indian tribe).

SEC. 9. USE OF FUNDS FOR TECHNOLOGY.

Notwithstanding any requirement applicable to an Indian behavioral health care program of an Indian tribe that is integrated under a demonstration project described in section 4, the Indian tribe may use funds made avail-

1 able under the program to purchase, lease, license, or pro-
2 vide training for technology for an automated clinical in-
3 formation system if the purchase, lease, licensing of, or
4 provision of training is conducted in accordance with a
5 plan approved by the Secretary under section 8.

6 **SEC. 10. FEDERAL RESPONSIBILITIES.**

7 (a) RESPONSIBILITIES OF THE INDIAN HEALTH
8 SERVICE.—

9 (1) MEMORANDUM OF UNDERSTANDING.—Not
10 later than 180 days after the date of enactment of
11 this Act, the Secretary, the Secretary of the Interior,
12 the Secretary of Labor, the Secretary of Education,
13 the Secretary of Housing and Urban Development,
14 the Attorney General, and the Secretary of Trans-
15 portation shall enter into a memorandum of agree-
16 ment providing for the implementation of the plans
17 approved under section 8.

18 (2) LEAD AGENCY.—The lead agency under
19 this Act shall be the Indian Health Service.

20 (3) RESPONSIBILITIES.—The responsibilities of
21 the lead agency under this Act shall include—

22 (A) the development of a single reporting
23 format—

24 (i) relating to each plan for a dem-
25 onstration project submitted under section

1 4, which shall be used by an Indian tribe
2 to report activities carried out under the
3 plan; and

4 (ii) relating to the projected expendi-
5 tures for the individual plan, which shall
6 be used by an Indian tribe to report all
7 plan expenditures;

8 (B) the development of a single system of
9 Federal oversight for the plan, which shall be
10 implemented by the lead agency;

11 (C) the provision of, or arrangement for
12 provision of, technical assistance to an Indian
13 tribe that is appropriate to support and imple-
14 ment the plan, delivered under an arrangement
15 subject to the approval of the Indian tribe par-
16 ticipating in the project (except that an Indian
17 tribe shall have the authority to accept or reject
18 the plan for providing the technical assistance
19 and the technical assistance provider); and

20 (D) the convening by an appropriate offi-
21 cial of the lead agency (who shall be an official
22 appointed by and with the advice and consent
23 of the Senate) and a representative of the In-
24 dian tribes that carry out projects under this
25 Act, in consultation with each of the Indian

1 tribes that participate in projects under this
2 Act, of a meeting at least twice during each fis-
3 cal year, for the purpose of providing an oppor-
4 tunity for all Indian tribes that carry out
5 projects under this Act to discuss issues relat-
6 ing to the implementation of this Act with offi-
7 cials of each agency specified in paragraph (1).

8 (b) REPORT REQUIREMENTS.—

9 (1) IN GENERAL.—The single reporting formats
10 described in subsection (a)(3)(A) shall be developed
11 by the Secretary in accordance with this Act.

12 (2) INFORMATION.—The single reporting for-
13 mat, together with records maintained on the con-
14 solidated program at the tribal level, shall contain
15 such information as the Secretary determines will—

16 (A) allow the Secretary to determine
17 whether the Indian tribe has complied with the
18 requirements incorporated in the approved plan
19 of the Indian tribe; and

20 (B) provide assurances to the Secretary
21 that the Indian tribe has complied with all—

22 (i) applicable statutory requirements;

23 and

24 (ii) applicable regulatory requirements
25 that have not been waived.

1 **SEC. 11. NO REDUCTION IN AMOUNTS.**

2 In no case shall the amount of Federal funds avail-
3 able to an Indian tribe involved in any project under this
4 Act be reduced as a result of the enactment of this Act.

5 **SEC. 12. INTERAGENCY FUND TRANSFERS.**

6 The Secretary, the Secretary of the Interior, the Sec-
7 retary of Labor, the Secretary of Education, the Secretary
8 of Housing and Urban Development, the Attorney Gen-
9 eral, or the Secretary of Transportation, as appropriate,
10 may take such action as is necessary to provide for the
11 interagency transfer of funds otherwise available to an In-
12 dian tribe in order to carry out this Act.

13 **SEC. 13. ADMINISTRATION OF FUNDS; EXCESS FUNDS.**

14 (a) ADMINISTRATION OF FUNDS.—

15 (1) IN GENERAL.—Program funds shall be ad-
16 ministered under this Act in such a manner as to
17 allow for a determination by the Secretary that
18 funds made available for specific programs (or an
19 amount equal to the amount used from each pro-
20 gram) are expended on activities authorized under
21 the program.

22 (2) SEPARATE RECORDS NOT REQUIRED.—
23 Nothing in this section requires an Indian tribe—

24 (A) to maintain separate records tracing
25 any service provided or activity conducted under
26 the approved plan of the Indian tribe to the in-

1 dividual programs under which funds were au-
2 thorized; or

3 (B) to allocate expenditures among indi-
4 vidual programs.

5 (b) EXCESS FUNDS.—With respect to administrative
6 costs of carrying out the approved plan of an Indian tribe
7 under this Act—

8 (1) all administrative costs under the approved
9 plan may be commingled;

10 (2) an Indian tribe that carries out a dem-
11 onstration program under such an approved plan
12 shall be entitled to receive reimbursement for the
13 full amount of those costs in accordance with regula-
14 tions of each program or department; and

15 (3) if the Indian tribe, after paying administra-
16 tive costs associated with carrying out the approved
17 plans, realizes excess administrative funds, those
18 funds shall not be counted for Federal audit pur-
19 poses if the excess funds are used for the purposes
20 provided for under this Act.

21 **SEC. 14. FISCAL ACCOUNTABILITY.**

22 Nothing in this Act affects the authority of the Sec-
23 retary or the lead agency to safeguard Federal funds in
24 accordance with chapter 75 of title 31, United States
25 Code.

1 **SEC. 15. REPORT ON STATUTORY AND OTHER BARRIERS TO**
2 **INTEGRATION.**

3 (a) PRELIMINARY REPORT.—Not later than 2 years
4 after the date of enactment of this Act, the Secretary shall
5 submit to the Committee on Indian Affairs of the Senate
6 and the Committee on Resources of the House of Rep-
7 resentatives a preliminary report that describes the imple-
8 mentation of this Act.

9 (b) FINAL REPORT.—Not later than 5 years after the
10 date of enactment of this Act, the Secretary shall submit
11 to the Committee on Indian Affairs of the Senate and the
12 Committee on Resources of the House of Representatives
13 a final report that—

14 (1) describes the results of implementation of
15 this Act; and

16 (2) identifies statutory barriers to the ability of
17 Indian tribes to integrate more effectively alcohol
18 and substance abuse services in a manner consistent
19 with this Act.

20 **SEC. 15. ASSIGNMENT OF FEDERAL PERSONNEL TO STATE**
21 **INDIAN ALCOHOL AND DRUG TREATMENT OR**
22 **MENTAL HEALTH PROGRAMS.**

23 Any State with an alcohol and substance abuse or
24 mental health program targeted toward Indian tribes shall
25 be eligible to receive, at no cost to the State, such Federal
26 personnel assignments as the Secretary, in accordance

- 1 with the applicable provisions of subchapter IV of chapter
- 2 33 of title 5, United States Code, determines to be appro-
- 3 priate to help ensure the success of the program.

